



IPW

Attorney Docket No. ZIGP:102US
U.S. Patent Application No. 10/605,623
Date: June 11, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MELENDREZ, Julian B.

U.S. Patent Application No. 10/605,623

For: FUEL CONDITIONING DEVICE

Filed: October 14, 2003

Examiner: McMahon, Marguerite J.

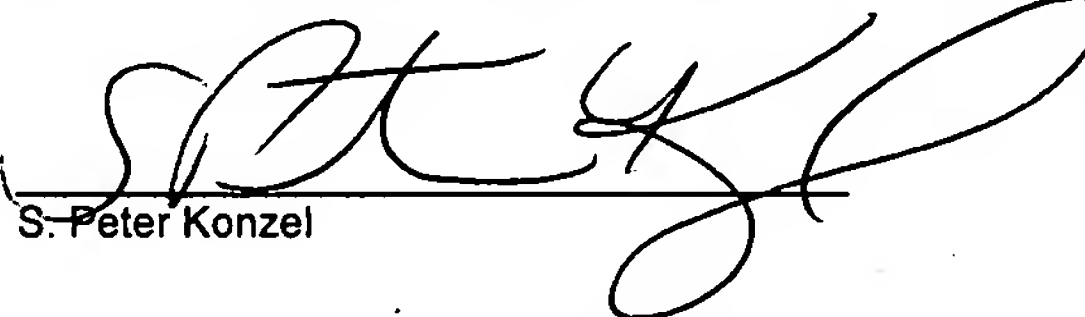
Group Art Unit: 3747

Confirmation No.: 2622

Customer No.: 24041

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S. Peter Konzel

REPLY TO OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Honorable Sir:

This Reply is in response to the Office Action of May 13, 2004 regarding the above-identified patent application.

Applicant hereby provisionally elects, with traverse, Species I, Claim 8, for further prosecution in the event that no generic claim is finally held to be allowable. It is understood that where a generic claim is held allowable, Applicant will be entitled to consideration of all additional species written in independent form or otherwise including all the limitations of such allowed generic claim(s).

Applicant respectfully submits that the Restriction Requirement/Election of Species is improper. To uphold a Restriction Requirement/Election of Species two criteria must be satisfied- the inventions must be independent or distinct as claimed and there must be a serious burden on the Examiner.

In the present case, Applicant respectfully submits that an examination of all species does not comprise a serious burden on the Examiner as all of the species relate to fuel conditioning devices comprising magnets and magnetically attractable plates in Class 123. Consequently, a separate search and examination is not required for each species.

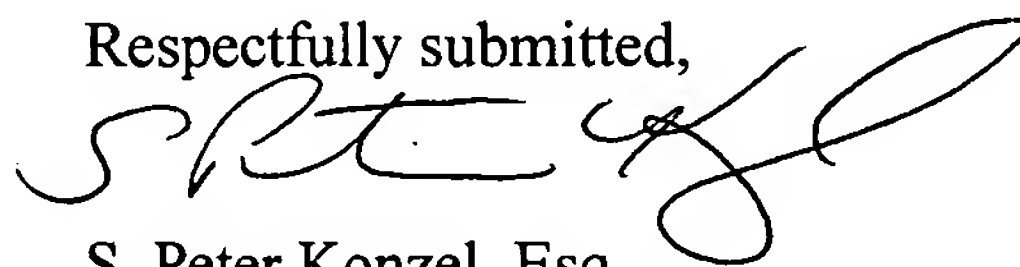
Additionally, the form of the Restriction Requirement/Election of Species is improper as the Examiner has not supported the finding of distinctiveness with reasoning or evidence. Indeed, the Examiner has merely concluded that the species are distinct and has not shown that the species are 1.) separately classifiable, 2.) have attained a separate status in the art, or 3.) that a different field of search would be required, as required by MPEP §808.02.

In sum, where the Examiner finds that "the classification is the same and the field of search the same and there is no clear indication of separate classification and field of search, no reasons exist for dividing among inventions," and the Restriction Requirement/Election of Species must be withdrawn as being improper. MPEP§808.02

Conclusion

For the reasons set forth above, Applicant respectfully requests examination of all currently pending claims.

Respectfully submitted,



S. Peter Konzel, Esq.

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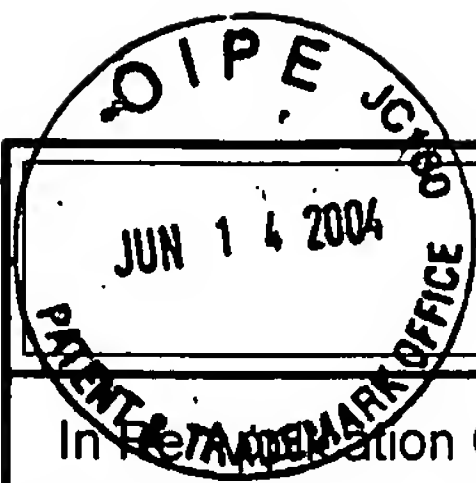
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Dated: June 11, 2004



TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
ZIGP:102US

In Re Application Of:

MELENDREZ, Julian B.

Serial No.
10/605,623

Filing Date
10/14/2003

Examiner
McMahon, M.

Group Art Unit
3747

Title: **FUEL CONDITIONING DEVICE**

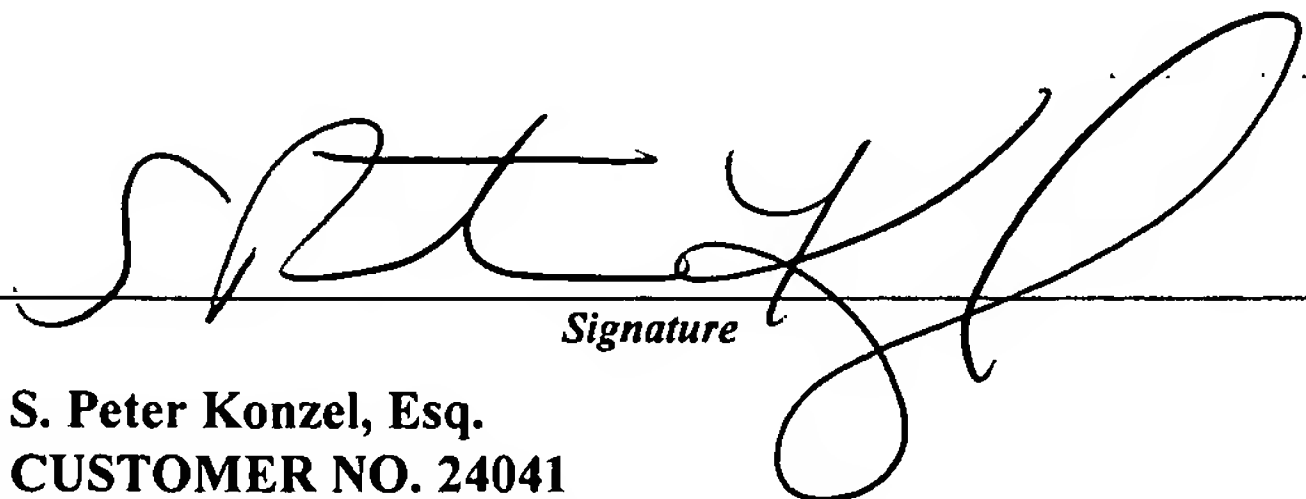
TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Reply to Office Action
Acknowledgement postcard

in the above identified application.

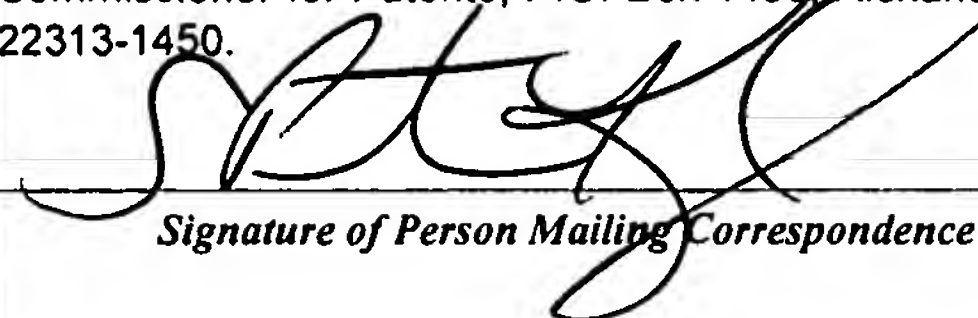
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Dated: **June 11, 2004**

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